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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,857	12/30/2003	Randall Cornfield	ICS-handle	6240
<div>DAN M. DE LA ROSA, Esq. 300 EAST 77th STREET, SUITE 24C NEW YORK, NY 10075</div>				
<div>7590 06/07/2010</div>				
<div>EXAMINER</div>				
<div>WILLIAMS, MARK A</div>				
<div>ART UNIT</div>		<div>PAPER NUMBER</div>		
<div>3673</div>				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/748,857

Applicant(s)

CORNFIELD, RANDALL

Examiner

MARK A. WILLIAMS

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 45-64 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 45-63 is/are allowed.
- 6) ☒ Claim(s) 64 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/22)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gebhardt, US Patent Des.373,289.

Gebhardt provides a handle implement comprising an elongated body having a tapered front side and a tapered rear end, top and bottom surfaces and opposing sides, said body being generally rounded and being generally parallel to a longitudinal axis at the center of said body, said tapered front side and said tapered rear end are situated on and taper toward said longitudinal axis at the center of said body, said tapered end leading to a tip end which is situated on the outermost surface of said implement, said tip end is situated on and tapers towards said axis (best seen in figures 2 and 3); a thumb positioning section situated on said top surface of said body adjacent to said front side of said body, said thumb positioning section sloping downwardly on opposing sides of said body, said

thumb positioning section comprising a thumb rest section; and an index finger rest section situated on said bottom surface of said body adjacent to said front side of said body; an encircable section situated adjacent said rear end of said body, said section being generally rounded in its circumference. The encircable section is designed to support user's palms and three fingers. The thumb positioning section is situated above said index finger rest section; the thumb rest section protrudes relative to said thumb positioning section. As best understood, the tapered front and rear ends extend outwardly toward one another and then tapers adjacent said index finger rest section; and the tapered front and rear ends extend outwardly toward one another and then tapers adjacent said thumb positioning section.

Gebhardt discloses the claimed invention except explicit teaching of (1) the index finger rest section comprising a cavity with an extended protrusion, said protrusion designed to cover at least a portion of user's index finger, and slopes downwardly and away from the front side towards said rear side as claimed; and (2) said tapered front end having an elongated tip end, said tip end narrows in circumference as it extends away from said index finger rest section, said tip end having an oval cross section. However, it should be noted in the crowded art of handle designs, particularly knife handle designs, there are a wide range of known

configurations, and each of these structural elements (1) and (2) are known in the art.

Regarding (1) and (2), it would have been an obvious matter of design choice to make the different portions of the handle of whatever form or shape was desired or expedient. A change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. *In re Dailey et al.*, 149 USPQ 47. Such modifications would allow for the purpose of providing an alternative design that would have included added shielding of the index finger during cutting, as known in the art; as well as an extended front tip allowing for more space between a users hand and the cutting blade.

Allowable Subject Matter

3. Claims 45-63 are allowed.

Response to Arguments

4. Applicant's arguments with respect to claim 64 of record have been considered but are not persuasive.

Applicant argues that the applied art does not provide a protrusion that slopes downwardly and away from the front side and slopes toward the rear end of the handle, as well as an elongated tip end with an oval cross-section, as claimed. The examiner agrees that each of these limitations are not explicitly shown, but considered them to be obvious modifications to one of ordinary skill in the art, as a modification in shape and/or form of the device. Such modifications would allow for the purpose of providing an alternative design that would have included added shielding of the index finger during cutting, as known in the art; as well as an extended front tip allowing for more space between a users hand and the cutting blade. However, note that an entire claim combination for claim 64 that includes these above limitations as well as elements of the thumb rest section having a rim, and being of different material, as claimed in claim 45 and 55, is considered an allowable combination. It is submitted that just one or two of theses modifications in combination would be obvious modifications, but all three together create an allowable combination.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARK A. WILLIAMS whose telephone number is (571)272-7064. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (571) 272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mark A. Williams/
Examiner, Art Unit 3673
/Peter M. Cuomo/
Supervisory Patent Examiner, Art Unit 3673